

(2008) 01 CHH CK 0007
In the Chhattisgarh High Court

Kamdev Verma

APPELLANT

Vs

The State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 02-01-2008

Acts Referred:

Citation : (2008) 118 FLR 43 : (2008) 2 MPHT 45

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Judgement

Satish K. Agnihotri, J.—Learned Counsel appearing for the petitioner submits that the petitioner was working on the post of Sub-Engineer in Block Mahasamund. He was dismissed from service on 31.01.1981.

2. The petitioner, by this petition seeks, inter-alia, following relief:

7.3 That this Hon''ble Court may kindly be pleased to hold the dismissal to be illegal, arbitrary, perverse, biased, malafide and unconstitutional and the petitioner has been acquitted by learned Chief Judicial Magistrate vide judgment dated 8.12.2004 (Annexure P/3) of the charge falsely roped U/s 409 I.P.C. he be allowed for all the service rules benefits provisional so for pension and retrial benefits gratuities outstanding salary since 31.3.1981 of the dismissal relieving order and with increased benefits salaries dues since date of acquittal dated 08.12.2004 in view of the decision of Hon''ble Supreme Court and provisions of law. Issue of writ direction and order appropriate against the respondents.

3. On query that whether the dismissal order was passed on the basis of pendency of criminal case, and further what did the petitioner do since 31.03.1981 till date. Learned Counsel, without replying to the query, contends that the case of the petitioner is squarely covered by a decision of the Supreme Court in case of G.M. Tank v. State of Gujrat, as the facts involved are similar.

4. With regard to the laches and delay of more than 27 years in filing the petition, the learned Counsel submits that the petitioner was waiting for decision in criminal case. The learned Counsel has miserably failed to establish the facts

that the departmental proceeding and the criminal case were based on identical and similar set of facts and the charge in the departmental case against the petitioner and the charge before the criminal Court were one and the same.

5. It is well settled principle of law that a decision is authority for which it is decided and not what can logically be deduced therefrom. A little difference in facts or additional facts may make a lot of difference in the precedential value of a decision. (See Bhavnagar University v. Palitana Sugar Mills Pvt. Ltd. and Ors.).

6. In absence of supply of the complete facts, it is difficult to hold that the dismissal of the petitioner and the criminal case were based on identical and similar set of facts and the charge in departmental case against the petitioner and the charge before the criminal Court were one and the same. Thus, the case of G.M. Tank (Supra) is distinguishable and is not applicable to the facts of the instant case.

7. It is well settled that High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic as the belated approach may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. (See Jagdish Narain Maltiar v. The State of Bihar and Ors., P.S. Sadasivaswam v. State of Tamil Nadu, State of M.P. and Ors. v. Nandlal Jaiswal and Ors., Burn Standard Co. Ltd. and Ors. v. Dinabandhu Majumdar and Anr. and Karnataka Power Corporation Ltd. through its Chairman & Managing Director and Anr. v. K. Thangappan and Anr.).

8. In view of the foregoing, the petitioner has not made out a case warranting interference with the order dated 31.01.1981, dismissing the petitioner from service.

9. On the basis of incomplete facts, the petition cannot be decided. However, if the petitioner is of the view that his termination order was passed on account of criminal case pending in a criminal court, the petitioner is at liberty to make a representation to the authorities concerned. In the event a representation is made, the concerned authorities shall consider the representation in accordance with law and pass appropriate orders.

10. In view of the foregoing, this petition stands disposed of at motion stage. No order asto costs.